

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:21-CV-449-D

MARIE BECTON,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting Commissioner
of Social Security,

Defendant.

ORDER

This matter is before the clerk on the pro se plaintiff's motion for entry of default [DE-12]. For the reasons set forth below, the motion is DENIED without prejudice.

Plaintiff initiated this action on November 2, 2021 by filing a complaint naming [DE-1] Kilolo Kijakazi, Acting Commissioner of the Social Security Administration as defendant. When a plaintiff sues an agency of the United States or a United States officer sued in his or her official capacity, the plaintiff must serve process in accordance with Rule 4(i) of the Federal Rules of Civil Procedure. This includes (1) delivering a copy of the summons and complaint to the United States Attorney for the district in which the action is brought, or to an assistant United States Attorney or clerical employee designated by the United States Attorney, or by sending a copy of the documents by registered or certified mail to the civil process clerk at the office of the United States Attorney; (2) sending a copy of the summons and complaint to the Attorney General of the United States by registered or certified mail; and (3) sending a copy of the summons and complaint by registered and certified mail to the agency or officer in question. See Fed. R. Civ. P. 4(i)(1), (2).

Plaintiff did not submit summonses with her complaint. Accordingly, on November 3, 2021, United States Magistrate Judge Robert T. Numbers II issued an order directing the plaintiff

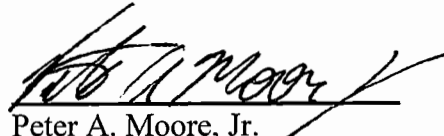
to correct several deficiencies, including plaintiff's failure to provide summons for the defendant, the U.S. Attorney General, and the U.S. Attorney civil process clerk [DE-2]. Plaintiff filed proposed summonses and the clerk issued the same on November 17, 2021 [DE-7]. The summons for the U.S. Attorney civil process clerk was directed to an address in Washington, D.C., and not an address in the Eastern District.

On November 29, 2021, plaintiff filed proof of service purporting to show service on the U.S. Attorney General, the defendant, and "Matthew M. Graves, U.S. Attorney" [DE-9]. On January 24, 2022, the clerk issued a notice to plaintiff informing her that the summons she provided for issuance was not directed to the civil process clerk of the U.S. Attorney for the Eastern District of North Carolina. The clerk directed plaintiff to provide a properly addressed summons [DE-11].

Instead, plaintiff filed the motion for entry of default [DE-12] on February 9, 2022. Over two weeks later, on February 25, 2022, plaintiff filed proposed summons directed to the civil process clerk for the U.S. Attorney for the Eastern District of North Carolina [DE-14] and the clerk issued the summons that same day [DE-15]. Thereafter, plaintiff filed a proof of service document as to the civil process clerk showing a date of service of March 3, 2022 [DE-17].

Under Rule 12(a), defendant has 60 days from March 3, 2022, within which to respond to the complaint. Consequently, plaintiff's motion for entry of default is premature, and is DENIED WITHOUT PREJUDICE.

SO ORDERED. This the 8 day of March, 2022.


Peter A. Moore, Jr.
Clerk of Court